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2d Session }

SENATE

{ REPORT
108-244

IRVINE BASIN SURFACE AND GROUNDWATER IMPROVEMENT ACT OF 2003

MARCH 9, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 1598]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1598) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 1598 is to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes.

BACKGROUND AND NEED

H.R. 1598 would authorize the Secretary, in cooperation with the Irvine Ranch Water District, to participate in the design, planning, and construction of projects to naturally treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the San Diego Creek Watershed.

Three water projects in Southern California are proposed. The first project would filter surface water and urban runoff in the San Diego Creek Watershed and Upper Newport Bay. The second project, the Irvine Desalter, would clean brackish groundwater and provide drinking water to the community. The facility is intended to provide the Irvine Basin with access to an alternative water

source. The third project would allow for the construction of a regional brine line to directly dispose of brine into the ocean. The brine line would allow the District to continue its efforts in increasing use of brackish water resources. The total Federal cost share for projects under the bill may not exceed 25 percent, and Federal funds may not be used for project operation and maintenance.

LEGISLATIVE HISTORY

H.R. 1598 was introduced by Representative Cox on April 3, 2003. A companion measure, S. 649, was introduced by Senator Feinstein on March 18, 2003. H.R. 1598 passed the House of Representatives on October 15, 2003, by a voice vote on a motion to suspend the rules, and was referred to the Committee on Energy and Natural Resources on October 16, 2003. The Subcommittee on Water and Power held a hearing on S. 649 on May 13, 2003. S. Hrg. 108–64. The Committee ordered H.R. 1598 favorably reported without amendment on February 11, 2004.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 11, 2004, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 1598. The rollcall vote on reporting the measure was 23 yeas and 0 nays, as follows:

YEAS	NAYS
Mr. Domenici	
Mr. Nickles	
Mr. Craig	
Mr. Campbell*	
Mr. Thomas	
Mr. Alexander	
Ms. Murkowski	
Mr. Talent	
Mr. Burns	
Mr. Smith*	
Mr. Bunning	
Mr. Kyl*	
Mr. Bingaman	
Mr. Akaka	
Mr. Dorgan*	
Mr. Graham*	
Mr. Wyden*	
Mr. Johnson*	
Ms. Landrieu*	
Mr. Bayh*	
Mrs. Feinstein*	
Mr. Schumer*	
Ms. Cantwell	

*Indicates vote by proxy

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 amends the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of projects to naturally treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the San Diego Creek Watershed. The section limits the Federal share of project costs to 25 percent, and prohibits Federal funds from being used for operation or maintenance of a project.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 20, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1598, the Irvine Basin Surface and Groundwater Improvement Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 1598—Irvine Basin Surface and Groundwater Improvement Act of 2003

Summary: H.R. 1598 would authorize the Secretary of the Interior, in cooperation with the Irvine Ranch Water District, to participate in the design, planning, and construction of projects to treat surface water, reclaim groundwater, and dispose of brine in the San Diego Creek Watershed. The act would limit the federal share of all project costs to 25 percent.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1598 would cost \$19 million over the 2005–2009 period. Enacting H.R. 1598 would not affect direct spending or revenues.

H.R. 1598 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Enacting this legislation would benefit local governments, particularly the Irvine Ranch Water District and nearby city and county governments. These governments would incur some costs to match the federal funds authorized by this act, but these costs would be voluntary.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 1598 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	0	5	5	5	4	0
Estimated outlays	0	1	3	7	5	3

Basis of Estimate: For this estimate, CBO assumes that H.R. 1598 will be enacted before the end of fiscal year 2004 and that the necessary amounts will be appropriated in each fiscal year starting in 2005. Based on information about the plans for this project from the Bureau of Reclamation, CBO estimates that implementing the act would cost \$19 million over the 2005–2009 period.

Intergovernmental and Private-Sector Impact: H.R. 1598 contains no intergovernmental or private-sector mandates as defined in UMRA. Enacting this legislation would benefit local governments, particularly the Irvine Ranch Water District and nearby city and county governments. These governments would incur some costs to match the federal funds authorized by this act, but these costs would be voluntary.

Previous Estimate: On October 6, 2003, CBO transmitted a cost estimate for H.R. 1598 as ordered reported by the House Committee on Resources on September 24, 2003. Except for a change in the assumed enactment date, the cost estimates are identical.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1598. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1598, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the Subcommittee hearing on the companion measure, S. 649, follows:

STATEMENT OF JOHN KEYS III, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

My name is John Keys and I am the Commissioner of the Bureau of Reclamation. I am pleased to appear before this Subcommittee to provide the Department's views on S. 649. S. 649 would amend the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.), commonly called Title XVI, to authorize the Secretary of the Interior to participate in projects within the

San Diego Creek Watershed in California and for other purposes.

Reclamation has had some preliminary discussions with the Irvine Ranch Water District about proposed surface water treatment, groundwater treatment, and brine disposal components of their project. However, S. 649 authorizes the design and construction of the project before Reclamation or the project sponsors have completed a feasibility study that meets the legal requirements of title XVI. Reclamation prefers that feasibility studies be completed first to determine whether these particular projects warrant Federal construction authorization. Therefore, we believe the legislation is premature and the Department cannot support S. 649.

The Department also opposes enactment of this legislation because authorizing new projects is likely to place an additional burden on Reclamation's already tight budget. With the tremendous backlog of existing Title XVI projects, we oppose the addition of new projects at this time. Based on recent funding levels, it could take Reclamation more than 15 years to complete funding of the 27 currently authorized projects. For these reasons, Madame Chairwoman, the Department cannot support S. 649.

For the record, Madame Chairwoman, in 1992, Congress adopted, and the President signed, the Reclamation Projects Authorization and Adjustment Act (Public Law 192-575). Title XVI of this Act, the Wastewater and Groundwater Study and Facilities Act, authorized the construction of five water reclamation and reuse projects. The Secretary was also authorized to undertake a program to identify other water recycling opportunities throughout the 17 western United States, and to conduct appraisal level and feasibility level studies to determine if those opportunities are worthy of implementation. The Bureau of Reclamation has been administering a grant program to fund these Title XVI projects since FY 1994.

In 1996, Public Law 104-266, the Reclamation Recycling and Water Conservation Act was enacted into law. This Act amended Title XVI and authorized the Secretary to participate in the planning, design, and construction of 18 additional projects, including two desalination research and development projects. Since 1996, Title XVI has been amended several other times and now there are 27 projects authorized for construction in eight states, and Reclamation has been granted authority to conduct planning studies in the State of Hawaii.

Thank you for the opportunity to comment on S. 649. That concludes my statement and I would be happy to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act H.R. 1598, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is

printed in *italic*, existing law in which no change is proposed is shown in *roman*):

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

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SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term “Secretary” means the Secretary of the Interior.

TABLE OF CONTENTS

Sec. 1. Short title.

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TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Sec. 1601. Short title.

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Sec. 1635. Lakehaven, Washington, Water Reclamation and Reuse Project.

Sec. 1636. *Irvine basin groundwater and surface water improvement projects.*

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TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

SEC. 1601. SHORT TITLE.

This title may be referred to as the “Reclamation Wastewater and Groundwater Study and Facilities Act”.

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SEC. 1636. *IRVINE BASIN GROUNDWATER AND SURFACE WATER IMPROVEMENT PROJECTS.*

(a) *AUTHORIZATION.*—*The Secretary, in cooperation with the Irvine Ranch Water District, California, is authorized to participate in the design, planning, and construction of projects to naturally treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the San Diego Creek Watershed.*

(b) *COST SHARE.*—*The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.*

(c) *LIMITATION.*—*The Secretary shall not provide funds for the operation or maintenance of a project authorized by this section.*